

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

## GREGORY SURGICAL SERVICES, LLC, :

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Plaintiff,

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Civil Action No. 06-0462 (JAG)

V.

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## ORDER

## HORIZON BLUE CROSS BLUE SHIELD :

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OF NEW JERSEY, INC.,

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Defendant.

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**GREENAWAY, JR., U.S.D.J.**

This matter comes before this Court on the motion by Defendant Horizon Blue Cross Blue Shield of New Jersey, Inc. to dismiss the Third Cause of Action of Plaintiff Gregory Surgical Services, LLC's Fourth Amended Complaint for failure to state a claim upon which relief can be granted, pursuant to FED. R. CIV. P. 12(b)(6), and it appearing that this Court has reviewed the parties' submissions, and for the reasons set forth in the accompanying Opinion, and good cause appearing,

IT IS on this 18<sup>th</sup> day of March, 2009,

ORDERED that defendant Horizon Blue Cross Blue Shield of New Jersey's motion (Docket Entry No. 39) to dismiss the Third Cause of Action, pursuant to FED. R. CIV. P. 12(b)(6), is GRANTED, without prejudice; and it is further

ORDERED that a copy of this Order be served on all parties within seven (7) days of the date of entry of this Order.

S/Joseph A. Greenaway, Jr.  
JOSEPH A. GREENAWAY, JR., U.S.D.J.